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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,553	06/24/2003	Thomas A. Makowski	5150-81000	1242
Jeffrey C. Hood Meyertons, Hood, Kivlin, Kowert & Goetzel P.O. Box 398 Austin, TX 78767				
EXAMINER				
TECKLU, ISAAC TUKU				
ART UNIT		PAPER NUMBER		
2192				
MAIL DATE		DELIVERY MODE		
03/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/602,553

Applicant(s)

MAKOWSKI ET AL.

Examiner

ISAAC T. TECKLU

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/16/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 82-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 82-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 82-102 have been examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/16/2008 has been entered.

3. The affidavit under 37 CFR 1.132 filed 01/06/09 is sufficient to overcome the rejection of claims 82-102 based upon Shah et al. (US 2003/0231211) applied under 35 U.S.C. 102(e). In the declaration the Affiants stated that "On information and belief, the Property Node Technology disclosed in '347 application was our invention." (Declaration, page 1, No. 3). However, the applied reference has only one common inventor with the instant application, Stephen C. Thorne. The examiner has treated Affiants' above statement to have to refer to the same assignee (Nation Instruments Corporation). Nevertheless, upon further search and consideration, a new ground of rejection has been applied as follows.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 82-85 and 87-102 are rejected under 35 U.S.C. 102(b) as being anticipated by Kudukoli et al. (US 2001/0024211 A1), hereinafter “Kudukoli”.

Per claim 82, Kudukoli discloses a computer readable memory medium comprising program instructions, wherein the program instructions are executable by a processor to (e.g. FIG. 2 and related text):

display a function node in a graphical program on a display (see at least paragraph [0013] “... user may select various function nodes or icons ... and connect the function nodes together...”), wherein the graphical program comprises a plurality of nodes and connections between the plurality of nodes (see at least paragraph [0013] “... connect the function nodes together...”), wherein the plurality of connected nodes visually indicate functionality of the graphical program (see at least paragraph [0013] “... connected in a signal flow format...”), and wherein the function node is executable in the graphical program to perform a first function (paragraph [0013] “... function nodes ... in one or more of a data flow, control flow and

execution flow format ...assembled graphical program ... compiled ... produce machine language.." and paragraph [0098], [0109] and [0125]);

display a function specific property node in the graphical program on the display (paragraph [0027] "... functionality of the graphical program to be generated... user input specified via wizard..." and e.g. FIG. 18), wherein the function specific property node is specific to the first function (see at least paragraph [0250] "... property node... create/modify... change the color of a user interface object..."), wherein the function specific property node comprises a plurality of properties of the first function (see at least paragraph [0251] "... select specific property, the user pop ups..."); associate the function specific property node with the function node (see at least paragraph [0277] "...new graphical program ... property node reference input receives.."); display the plurality of properties on the display (see at least e.g. FIG. 24 and 25A and related text); and

receive user input selecting one or more of the plurality of properties (see at least paragraph [0251] "... select specific property, the user pop ups..."); wherein the selected one or more properties are accessible during execution of the graphical program (paragraph [0013] "... function nodes ... in ore or more of a data flow , control flow and execution flow format ...assembled graphical program ... compiled ... produce machine language.." and paragraph [0098], [0109] and [0125]).

Per claim 83, Kudukoli discloses the memory medium of claim 82, wherein the property node is statically typed to correspond to the function node (see at least paragraph [0253] "... input of the property node...").

Per claim 84, Kudukoli discloses the memory medium of claim 82, wherein the function specific property node visually indicates the association with the function node (see at least paragraph [0250] "... property node... create/modify... change the color of a user interface object...").

Per claim 85, Kudukoli discloses the memory medium of claim 82, wherein, during execution of the graphical program, the function specific property node is executable to:

receive input specifying a modification to at least one of the one or more properties (see at least e.g. FIG. 4, 204 – Specify program information, e.g. in response to user input, wherein the program information specifies desired functionality to be implemented in a graphical program and related text); and

modify the at least one of the one or more properties in response to the input to configure the function node to perform the first function, wherein, after said modifying, the function node is executable in the graphical program to perform the first function in accordance with the modified at least one of the one or more properties (see at least paragraph [0162], [0250] "... property node... create/modify... change the color of a user interface object...").

Per claim 87, Kudukoli discloses the memory medium of claim 82, wherein, during execution of the graphical program, the program instructions are executable to:

read at least one of the plurality of properties from the function node; and
provide the at least one property to a graphical program element comprised in the graphical program (see at least paragraph [0013] "... select various function nodes or icons...").

Per claim 88, Kudukoli discloses the memory medium of claim 87, wherein the graphical program element comprises a GUI, wherein the GUI is operable to display the at least one property during execution of the graphical program (see at least paragraph [0019] "... user interface panel ...").

Per claim 89, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a timing node, operable to provide timing functionality for the graphical program; and wherein the function specific property node comprises a timing property node (see at least e.g. FIG. 17-19 and related text).

Per claim 90, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a triggering node, operable to provide triggering functionality for the graphical program; and wherein the function specific property node comprises a triggering property node (see at least e.g. FIG. 17-19 and related text).

Per claim 91, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a read node, operable to provide data acquisition (DAQ) functionality for the graphical program; and wherein the function specific property node comprises a read property node (paragraph [0079] DAQ card 114 ...").

Per claim 92, Kudukoli discloses the memory medium of claim 82, wherein the

function node comprises a write node, operable to provide signal generation functionality for the graphical program; and wherein the function specific property node comprises a write property node (paragraph [0250] "... write node ...").

Per claim 93, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a channel creation node, operable to create a channel for the graphical program (e.g. FIG. 20 and related text); and wherein the function specific property node comprises a channel property node, operable to access channel properties of the created channel (e.g. FIG. 17 and related text).

Per claim 94, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a calibration information data structure that is operable to provide calibration information for a device used by the graphical program; and wherein the function specific property node comprises a calibration information property node (see at least e.g. FIG. 17-19 and related text)..

Per claim 95, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises an export signal data operable to provide export signal data for the graphical program; and structure that is wherein the function specific property node comprises an export signal property node (see at least paragraph [0013] "... connected in a signal flow format...")

Per claim 96, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a switch channel specification for the graphical program; and wherein the function specific property node comprises a switch channel property node (see at least paragraph [0082] and paragraph [0125]).

Per claim 97, Kudukoli discloses the memory medium of claim 82, wherein the object comprises a switch scanning task specification for the graphical program; and wherein the function specific property node comprises a switch scan property node ((paragraph [0013] "... function nodes ... in one or more of a data flow, control flow and execution flow format ... assembled graphical program ... compiled ... produce machine language.." and paragraph [0098], [0109] and [0125]).

Per claim 98, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a scale specification for the graphical program; and wherein the function specific property node comprises a scale property node (see at least e.g. FIG. 17-19 and related text).

Per claim 99, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a data structure storing software configuration information for a host computer system; and wherein the function specific property node comprises a system property node (see at least paragraph [0277] "...new graphical program ... property node reference input receives..").

Per claim 100, Kudukoli discloses the memory medium of claim 82, wherein the function node comprises a data information, including one or more of: a task name; one or more channel names; a number of channels; or structure that stores general task a task status indicator; and wherein the function specific property node comprises a task property node (paragraph [0013] "... function nodes ... in ore or more of a data flow , control flow and execution flow format ...assembled graphical program ... compiled ... produce machine language.." and paragraph [0098], [0109] and [0125]).

Per claim 101, Kudukoli discloses the memory medium of claim 82, wherein the function node represents a hardware device; and wherein the function specific property node comprises a device property node (paragraph [0027] "... functionality of the graphical program to be generated... user input specified via wizard..." and e.g. FIG. 18).

As per claim 102, this is the system version of the claimed medium discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kudukoli.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 86 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kudukoli et al. (US 2001/0024211 A1) in view of Washington et al. (US 2002/0196282 A1).

Per claim 86, Kudukoli substantially disclosed the invention as claimed above. However, Kukukoli does not explicitly disclose wherein, prior to said displaying the plurality of properties on the display, the program instructions are further executable to: display one or more filtering options for available properties of the function node, wherein the available properties include the plurality of properties ; and receive user input indicating a first filtering option of the one or more filtering options, wherein said displaying the plurality of properties is performed in accordance with the first filtering option. Nevertheless, as evidenced by the teaching of Washington, it was known to display one or more filtering options for available properties of the function node, wherein the available properties include the plurality of properties (see at least paragraph [0169] – filters- and e.g. FIG. 20-21); and receive user input indicating a first filtering option of the one or more filtering options, wherein said displaying the plurality of properties is performed in accordance with the first filtering option (see at least paragraph [0169] “... input panel for configuring the node labeled...”). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to display one or more filtering options for available properties of the function node, wherein the available properties include the plurality of properties ; and receive user input indicating a first filtering option of the one or more filtering options, wherein said displaying the plurality of properties is performed in

accordance with the first filtering option for making the user cable of configuring the collector mode to determine the data collection in various ways and perform a numerical function on at least a subset of the received data values in response to user input as once suggested by Washington (see at least paragraph [0018]).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

• “LabVIEW Function and VI Reference Manual”, January 1998, pp. 1-609. Retrieved from
<www.ni.com/pdf/manuals/321526b.pdf>

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAAC T. TECKLU whose telephone number is (571) 272-7957. The examiner can normally be reached on M-TH 9:300A - 8:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Isaac T Tecklu/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192